

COPY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CURTIS E. MILLER,
Petitioner,
v.
L.S. McEWEN, Warden,
Respondent.

NO. CV 11-7907-GW (AGR)

ORDER ACCEPTING FINDINGS
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the petition, records on file, and the Report and Recommendation of the United States Magistrate Judge. Further, the Court has engaged in a *de novo* review of those portions of the Report to which Petitioner has objected.

The Magistrate Judge found that the Court did not have jurisdiction to entertain the petition and that the petition was time-barred. Because the Court accepts the findings and recommendation of the Magistrate Judge that the Court lacks jurisdiction, it cannot reach the merits of the petition. See, e.g., *Cooper v. Calderon*, 274 F.3d 1270, 1274 (9th Cir. 2001) ("The district court correctly recognized that [the] petition was 'second or successive' under Section 2244(b).

1 Once it did so, however, it lacked jurisdiction to consider the merits of his
2 petition.”)

3 Petitioner’s objections have no merit.

4 IT IS ORDERED that judgment be entered denying the petition and
5 dismissing this action without prejudice.

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7 DATED: July 18, 2012

George H. Wu
8 GEORGE H. WU
9 United States District Judge
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